The motion was adopted

CLAUSES 2 to 6

MR. SPEAKER.—There are no amendments. I will now put it to the vote of the House. The question is :

"That Clauses 2 to 6, both inclusive, do stand part of the Bill."

The motion was adopted

Clauses 2 to 6, both inclusive, were added to the Bill.

CLAUSE 1, Etc.

MR. SPEAKER.—The question is :

"That Clause 1 the Long Title, the Preamble and the Enacting Formula do stand part of the Bill."

The motion was adopted

Clause 1, the Long Title, the Preamble and the Enacting Formula were added to the Bill.

Motion to Pass

SRI B. BASAVALINGAPPA.—Sir, I move:

"That the Karnataka Societies Registration (Amendment) Bill, 1978, as passed by the Legislative Council, be passed."

MR. SPEAKER.—I will put the Bill to the vote of the House. The question is:

"That the Karnataka Societies Registration (Amendment) Bill, 1978, as passed by the Legislative Council be passed."

The motion was adopted and the Bill was passed

Karnataka Civil Courts (Amendment) Bill, 1978. as passed by the L.C.

Motion to Consider

SRI B. B. SAYANAK.—The Hon. Minister is not present to take up this Bill.

MR. SPEAKER.—Any Cabinet Minister can move the Bill.

In the meantime, the concerned Minister may come.

SRI B. B. SAYANAK.—He must be present here.....

Sri B. BASAVALINGAPPA.—Sir, I beg to move:

"That the Karnataka Civil Courts (Amendment) Bill 1978 as passed by the Legislative Council be taken into consideration."

The Question was proposed

Sir,.....

SRI B. B. SAYANAK.—He is not the Law Minister

SRI K. PUTTASWAMY.—It does not redound to our credit.....

SRI B.B. SAYANAK.—There must be some sense of responsibility..

† SRI L.G. HAVANUR (Minister for Law, Social Welfare and Backward Classes).—I may kindly be pardoned for my absence. Thinking that it may not reach so soon, I had been outside. I seek the indulgence of the House.

Sir, the present amendment bill is intended to delete some of the provisions which were incorporated in the Karnataka Civil Courts (Amendment) Act of 1976. Section 23 of the Karnataka Civil Courts Act, 1964 empowers the High Court to invest the Civil Judge with the powers of issuing certificates of succession, and probates or letters of Administration. The Amendment Act 1976 has received the assent of the Governor and when it was sent to the High Court, the High Court opined that the amended act indirectly amends the Indian Succession Act and so the 1976 Amendment Act should have received the assent of the President and not the Governor. The Government did not agree with the opinion of the High Court but being apprehensive of the future of the Act in the event of the Amendment Act is challenged in the High Court, the Government thought of deleting only those provisions of the 1976 Act which in the opinion of the High Court are likely to amend the Indian Succession Act. Sections 4, 5 and 10 of the Amendment Act of 1976 are now intended to be deleted by the present Amendment Act. This Bill also intends to replace the Ordinance which is promulgated earlier and the Bill has already been passed by the Council.

SRI BHIMANNA S. KHANDRE.—When was the Ordinance issued?

SRI L. G. HAVANUR.—The Ordinance was issued on the 15th December, 1977.

ಶ್ರೀ ಕೆ. ಪುಟ್ಟಸ್ವಾಮಿ.—೧೯೭೬ರಲ್ಲಿ ಆಕ್ಟ್ ಆಗಿ ೨ ವರ್ಷ ಸುಮ್ಮನೆ ಇದ್ದುದಕ್ಕೆ ಕೇವಲ ೨ ತಿಂಗಳು ಕಾದಿದ್ದು ಅಸೆಂಬ್ಲಿ ಮುಂದೆ ಇಡಬಹುದಾಗಿತ್ತು. ಅದೇ ನನ್ನ ಆಕ್ಷೇಪಣೆಯಲ್ಲದೆ ಮತ್ತೇನು ಇಲ್ಲ. The High Court felt that it should have been submitted to the President for his assent. It was not submitted to the President for his assent. So, it was not implemented and an Ordinance was issued.

SRI L.G. HAVANUR.—No doubt the 1976 Act was not brought into force. 1976 Act contained provisions not only relating to the grant of letters of administration, probates etc., it provides also for matters relating to appeals, division and other things. Therefore, when the Amended Act was sent to the High Court, the High Court pointed out that the Sections 4, 5 and 10 of the Amendment Act be deleted. We requested the High Court to make provision in respect of matters which we did not intend deleting. Since the matter was pending before the High Court, we had to issue the Ordinance, In respect of other matters, we requested the High Court. The hon. Members may please refer to other provisions of the 1976 Amendment Act. Section 20 provided for appeals from Munsiffs. This provision has not been deleted now, When we requested the High Court to make necessary arrangements to implement the provisions of Section 20

SRI K. PUTTASWAMY.—The Act was unimplemented for two years and an Ordinance was promulgated in December. When you were waiting for two years, could you not wait for two more months and brought a regular bill? Time and again we have been pointing out on the floor of the House that the Government of the day, whichever Government may be, is trying to treat very lightly of the powers of promulgation of Ordinance. If there are really pressing problems, the Government have a right to get an Ordinance promulgated. I am only pointing out the very fact that it is kept unimplemented for two years shows that it was not a pressing problem. Then, they could have waited for two more months. That is all the observation and nothing more on the merit.

SRI BHIMANNA S. KHANDRE.—May I know whether the Government has sought the opinion of the High Court in this regard?

SRI L. G. HAVANUR.—Since the Constitution and Organisation of the Courts of Munsiffs and Civil Judges come within the purview of the High Court, any law that the Government intends to make the High Court has got to be consulted in such matters. We consulted the High Court and the High Court expressed an opinion different from what we took.

ಶ್ರೀ ಭೀಮಣ್ಣ ಎಸ್. ಖಂಡ್ರೆ.—ಅದಕ್ಕೆ ನಾನು ಕೇಳುವುದು, ಹೈಕೋರ್ಟ್‌ನ ಅಭಿಪ್ರಾಯವನ್ನು ತೆಗೆದುಕೊಂಡು ಮಾಡುವುದಿದ್ದರೆ, ಮೊದಲೇ ನಿಮ್ಮಲ್ಲಿದ್ದ ಲಾ ಪಂಡಿತರನ್ನು ವಿಚಾರ ಮಾಡಿ, ಮಾಡಿದ್ದರೆ ಚೆನ್ನಾಗಿರುತ್ತಿತ್ತು. ಆದರೆ ಆದೇಕೆ ಆ ರೀತಿ ಮಾಡಲಿಲ್ಲ?

SRI L. G HAVANUR.—Consultation is not mandatory. Even so, there is a sort of relationship between the High Court and the Government for consultation and at what stage we should consult

depends upon the nature of the legislation we intend to introduce. The consultation was made even before but the High Court did not express that opinion until the Bill was passed.

ಶ್ರೀ ಭೀಮಣ್ಣ ಖಂಡ್ರೆ.—ಮೊದಲು ಲಗ್ನ ಮಾಡಿ ನಂತರ ಪಂಚಾಂಗನೋಡಿದಹಾಗಾಯಿತು ನೀವು ಮಾಡಿರುವುದು. ಮೊದಲೇ ಗೌರ್ನರ್ ಹತ್ತಿರ ಆಸೆಂಟ್ ತೆಗೆದುಕೊಂಡು ಈಗ ಬಿಲ್ ತಂದಿದ್ದೀರಿ, ರಾಷ್ಟ್ರಪತಿಗೆ ಮೊದಲೇ ಕಳುಹಿಸುವುದಕೆ ಏನು ಅಡ್ಡಿ ಇತ್ತು ?

SRI L. G. HAVANUR. – Sir, we are yet of the opinion that the opinion expressed by the High Court is not correct. Even so, as I said th apprehension and the hardship that the litigants in the mofussil could be put to, we thought it advisable to delete this provision and introduce a new section vesting powers with the Munsiffs which was hitherto exercised by the District Judge or the Civil Judge. The State Government is of the opinion that the assent of the President is not necessary to this amendment and that being so it shall come into force by the issuance of a notification,

12-30 P. M,

MR. SPEAKER.—I will now put the consideration motion to vote of the House. The question is,

> "That the Karnataka Civil Courts (Amendment) Bill, 1978 as passed by the Legislative Council be taken into consideration.

The motion was adopted

CLAUSES 2 to 4

MR SPEAKER.—I will take up clause by clause consideration. As there are no amendments, I will put clause 2 to 4 both inclusive to the vote of the House. The question is,

"That clauses 2 to 4 both inclusive do stand part of the Bill"

The motion was adopted

Clauses 2 to 4 both inclusive were added to the Bill.

CLAUSE 1 etc.

MR. SPEAKER.—The question is,

"That Clause 1, the long title the preamble and the enacting formula do stand part of the Bill"

The motion was adopted

Clause 1, the Long Title the Preamble and the Enacting Formula were added to the Bill.

Motion to pass

SRI L. G. HAVANUR.—Sir, I beg to move,

"That the Karnaraka Civil Courts (Amendment) Bill, 1978 as passed by the Legislative Council, be passed.

MR. SPEAKER.—The question is;

SRI B. B. SAYANAK.—Sir, you have not called my name to speak on the Bill.

MR. SPEAKER.—Now Mr. Sayanak may speak.

† SRI B. B. SAYANAK.—Mr. Speaker, Sir, I totally support this Bill, because this is a good provision wh ch empowers the Munsiffs to issue Succession Certificate Probates and Letters of Administration. Therefore, I thank the Law Minister for having brought this amendmeni. Sir, there are still more problems to be solved. In Belgaum District, there are so many courts without judges. In my area also there are no Presiding Officers for the JMFC Court for the last one year. In Khanapur, there is no JMFC court for the last 3 years. So, I request the Government to appoint the Magistrates and Munsiffs immediately in these areas. Another thing is, Government have issued orders that the hereafter judgement should be delivered in Kannada as far as possible. Sir, I would request the Government to issue instructions to deliver judgement in English in our area, The deposition of the witnesses must be recorded in English only, because majority of the people in that area do not know Kannada. So, I request the Government to issue necessary instructions to the Courts to have the deposition in Marathi.

Regarding name boards, I would like to suggest to the Govertment that it should be in three langauges. *i.e.*, Marathi, English and Kannada.

Sir, I would also request the Government to construct quarters for the use of Munsiffs and Magistrates who are working in this area thereby providing accomodation to them as is done by the Revenue Department.

† SRI H. GANGADHARAN.—Sir, I am afraid whether the bill which we are going to pass is valid in the court of law. Because, we are introducing an amendment to the Civil Courts Act and the real benefit will not be derived under the Indian Succession Act, 1925 which is a Central Act. According to the present amendment, powers have been given to the Munsiffs to issue Succession Certificate etc., So, when we want to make an application for the grant of certificate to the court, it should be under Section 371 of the Act. Section 371 of the Act reads: "the District Judge within whose jurisdiction the deceased

ordinarily reside at the time of his death or if the deceased at the time of his death he has no fixed place of residence, the district judge within whose jurisdiction any of the part of the property of the deceased".....may grant Succession Certificate under this Act. Section 372 also refers how the District Judge can grant certificate. Again in Section 373 (1) it says "if the District Judge is satisfied that there is a ground for entertaining this application, he shall fix the date etc., and the procedure is same. Even under Section 376 and 376, the District Judge who has the jurisdiction over the area can grant succession certificate and it also prescribes the procedure to be followed in making the application. So, in this provision if we are to vest powers of grant of certificate with Munsiff or the Civil Judge, I think we are almost amending the Central Act which we cannot do at all. How can we take away these jurisdictional powers granted under the Central Act and amend the State Act and give powers to the Munsiffs ? This is one thing that needs clarification.

Sri P. N. Reddy (Malur).— Sir, Just now we heard from the Opposition Benches regarding the amendment of the Central Act. Of course, the State Legislature has no power to amend a Central Act. All that they have done is to amend the Karnataka Civil Courts (Amendment) Act to empower the Munsiffs also in addition to the Civil Judges. Since the High Court has opined that this would require the assent of the President, the Government has brought in this Bill which seeks to delete sections 4, 5 and 10 of the principal Act.

† Sri L. G. Havanur.—Sir, I will first answer the last question relating to the objection which was raised here that the amendment in substance is intended to undo what is contained in the Indian Succession Act. Without entering into the niceties of law or interpretation of expressions or the demarcation of the jurisdiction of various courts, I would submit that the matters governed by the Indian Succession Act come under the concurrent list of the Constitution, if I am not incorrect. Since it is included in the concurrent list, the State Legislature has also power to introduce necessary amendments provided the intended amendment receives the assent of the President. As I said before, since the High Court took abjection that our amendment in substance is an amendment not to the Karnataka Civil Courts Act but an amendment to the Indian Succession Act, the present amendment is introduced. Not that our opinion was in correct but this has been brought in to avoid a possible challenge about the legality of law we have made in the High Court. As I said, being apprehensive of the future of this enactment, we throught it wise to delete those sections, I believe this answer would suffice for the doubts the hon'ble Members have entertained.

About the vacancies in the courts, appointment of Munsiffs and Magistrates in various courts, the language of the court, the language of the judgement, the language of deposition of witnesses and other things all these questions involve larger issues and they may not have relevance to the present amendment. Even so, since these larger issues have been raised, the Government feels that a large number of posts of Munsiffs and Magistrates are vacant. When the Public Service Commission recently notified the vacancies of about 65 Munsiffs and Magistrates, only 5 candidates were able to pass in the written examination. Now, the difficulty with both the Government and the High Court is how to select the required number of Munsiffs and Magistrates. If we continue to test the students in the written examination, the result may not be better. While there is a suggestion from the High Court that we should do away with the written examination and take away this matter from the jurisdication of the P.S.C. The correspondence shows that the P.S.C. is not inclined to surrender the power which it has in the matter of appointment of Munsiffs and Magistrates. The High Court and the Government are now very much handicapped because of the attitude the Public Service Commission has adopted in matters pertaining to the appointment of Munsiffs and Magistrates. However, we are now thinking of having a different method by which either the written examination can be totally done away with are the rigour of the written examination can be diluted or if Both the High Court and the Public Service Commission agree we may resort to an easy and quick method of conducting not the written examination but *viva-voce* examination and selecting the required number of Munsiffs and Magistrates in a short time.

Since our State consists of linguistic minorities like Marathi-speaking people, Urdu-speaking people and people speaking other languages, it is not possible to prescribe a test for the selection of Magistrates and Munsiffs that they should pass a test not only in Kannada but also in other languages. As far as possible, to avoid hardship to the litigant public, as my hon'ble Friend knows, there is a provision for appointment of translators and the depositions shall be in the language of the witnesses.

Regarding language of the judgment, English being one of the languages in which judgments have got to be written, there is nothing objectionable if the Magistrates or Civil Judges or Munsiffs continue to write judgments in English.

About the construction of residential quarters for the judicial officers, the Government has given serious attention to the problem of providing residential quarters to the judicial officers in areas or places where they find it difficult to secure the buildings.

Thank you.

SRI BHEEMANNA S. KHANDRE.—I only want to enlighten the House that this will become null and void. The Civil Judge uses the power of the District Judge. District Judge himself cannot hear the appeals. That is the clarification I want to have.

SRI L. G. HAVANUR.—With utmost respect to the hon'ble Member, I would like to say that we are not dealing with the provision relating to appeals and revisions. It is a matter totally extraneous to the present amendment. So, I need not answer it.

MR. SPEAKER.—I will put the Bill to the vote of the House. The question is :—

"That the Karnataka Civil Courts (Amendment) Bill, 1978, as passed by the Legislative Council, be passed."

The motion was adopted and the Bill was passed

KARNATAKA STATE UNIVERSITIES (AMENDMENT) BILL, 1978 as passed by L. C.

Motion to consider

SRI B. SUBBAYYA SHETTY (Minister for Eduction).— Sir, I beg to move, that the Karnataka State Universities (Amendment) Bill, 1978. be taken into consideration.

The question was proposed

Sir, this amending Bill is a consequential and enabling amendment. In section 21 there is provision to elect five representatives of students and there is no provision as to how this election should be conducted. So, to enable that, this consequential amendment has been brought. In a similar way there is section 54 where in there is provision for recognition of certain institution for special purposes and to make the scop wider this amendment has been brought.

In clause 6, there is mention of Director of Languages and Development of Kannada. But that department was bifurcated into Department of Kannada and Culture and Department of Translation. So, to substitute the Department of Kannada and Culture this amendment is brought. This is a simple Bill and I commend this to the House.

† ಶ್ರೀ ಎಸ್. ಆರ್. ಬೊಮ್ಮಾಯಿ (ಹುಬ್ಬಳ್ಳಿ).— ಅಧ್ಯಕ್ಷರೇ, ಇಲ್ಲಿ ವಿನಾಗಿದೆ ಅಂದರೆ ಯೂನಿವರ್ಸಿಟಿ ಆಕ್ಟಗಳ ಒಂದು ಇತಿಹಾಸವೇ ಹೊರಟು ಹೋಗಿದೆ. ಸರ್ಕಾರಕ್ಕೆ ಒಂದು ಸ್ಪಷ್ಟೀಕರಣ ಕೇಳಬಯಸುತ್ತೇನೆ, ಒಂದು ಸಲ ಸೆನೆಟ್‌ಗೆ ಚುನಾವಣೆ ಆಯಿತು ಸೆನೆಟ್ ಮೀಟಿಂಗ್ ಕೂಡುವುದಕ್ಕೆ ಮುಂಚೆ ೧೯೭೬ರಲ್ಲಿ ಕಾಮನ್ ಯೂನಿವರ್ಸಿಟಿ ಆಕ್ಟ್ ಬಂತು. ಈ ಆಕ್ಟ್ ಬಂದಮೇಲೆ ಚುನಾವಣೆ ಮಾಡಲಿಕ್ಕೆ